

1 Francesco Benavides, CSBN 258924
2 Law Offices of Francesco Benavides
3 1990 N. California Blvd. Suite 20
4 Walnut Creek, CA 94596
5 Tel: (925) 222-7071
6 Fax: (925) 522-5306
7 Email: francesco@benavidesdisabilitylaw.com

8 Attorney for Plaintiff
9 DANITA EMERY-COTNER

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

12 DANITA EMERY-COTNER,
13
14 Plaintiff,
15
16 v.
17 KILOLO KIJAKAZI, Acting
18 Commissioner of Social Security,
19 Defendant.

No. 2:21-cv-1262 DB

STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT;
AND ORDER

20 IT IS HEREBY STIPULATED by and between the parties through their
21 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
22 attorney fees and expenses in the amount of \$8,672.87, under the Equal Access to
23 Justice Act (EAJA), 28 U.S.C. § 2412(d), and \$402 in costs under 28 U.S.C. § 1920.
24 This amount represents compensation for all legal services rendered on behalf of
25 Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C.
26 §§ 2412(d), 1920.

27 After the Court issues an order for EAJA fees to Plaintiff, the government will
28 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to

1 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
2 to honor the assignment will depend on whether the fees are subject to any offset
3 allowed under the United States Department of the Treasury's Offset Program. After
4 the order for EAJA fees is entered, the government will determine whether they are
5 subject to any offset.

6 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
7 determines that Plaintiff does not owe a federal debt, then the government shall cause
8 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,
9 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

10 This stipulation constitutes a compromise settlement of Plaintiff's request for
11 EAJA attorney fees and does not constitute an admission of liability on the part of
12 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
13 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
14 Francesco Benavides, including the Law Offices of Francesco Benavides, may have
15 relating to EAJA attorney fees in connection with this action.

16 This award is without prejudice to the rights of Francesco Benavides to seek
17 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings
18 clause provisions of the EAJA.

19
20 Respectfully submitted,

21
22 Dated: October 6, 2022

Law Offices of Francesco Benavides

23
24 By: /s/ Francesco Benavides
25 FRANCESCO P. BENAVIDES
26 Attorney for Plaintiff
27
28

1 Dated: October 6, 2022

2 PHILLIP A. TALBERT
3 United States Attorney
4 MATHEW W. PILE
5 Associate General Counsel
6 Social Security Administration

7 By: Daniel P. Talbert*
8 DANIEL P. TALBERT
9 Special Assistant U.S. Attorney
10 Attorneys for Defendant
11 (*Permission to use electronic signature
12 obtained via email on October 6, 2022).
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and expenses in the amount of \$8,672.87 as authorized by 28 U.S.C. § 2412, and \$402 in costs under 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.

DATE: October 11, 2022

/s/ DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE